



Billing Code 4333-15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 91

[Docket No. FWS–HQ–MB–2015–0161; FXMB1233090000//189//FF09M13200]

RIN 1018-BB23

Revision of Federal Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Contest Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Revised proposed rule; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), are revising our previous proposal to revise regulations governing the annual Migratory Bird Hunting and Conservation Stamp Contest (also known as the Federal Duck Stamp Contest (contest)). The proposals in this document are revisions to our February 11, 2016, proposed rule and consist of further updates to the scientific names of species on our list of contest design subjects, updates to recognize technological advances in stamp design and printing, and proposed requirements specific to the 2018 contest.

DATES: We will accept comments that we receive on or before [Insert date 30 days after date of FEDERAL REGISTER publication]. Please note that if you are using the Federal eRulemaking Portal (see ADDRESSES, below), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit comments by one of the following methods:

- Electronically: Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS–HQ–MB–2015–0161, which is the docket number for this proposed rule. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on “Comment Now!” Please ensure that you have found the correct rulemaking before submitting your comment.
- By hard copy: Submit by U.S. mail or hand delivery to: Public Comments Processing, Attn: FWS–HQ–MB–2015–0161; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: BPHC; Falls Church, VA 22041-3803.

We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Public Comment Procedures and Public Availability of Comments under SUPPLEMENTARY INFORMATION for more information).

FOR FURTHER INFORMATION CONTACT: Suzanne Fellows, (703) 358-2145,  
suzanne\_fellows@fws.gov.

## SUPPLEMENTARY INFORMATION:

### Background

#### History of the Federal Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Program

On March 16, 1934, Congress passed, and President Franklin D. Roosevelt signed, the Migratory Bird Hunting Stamp Act. Popularly known as the Duck Stamp Act, it required all waterfowl hunters 16 years or older to buy a stamp annually. The revenue generated was originally earmarked for the Department of Agriculture, but 5 years later was transferred to the Department of the Interior and the Service.

In the years since its enactment, the Federal Duck Stamp Program has become one of the most popular and successful conservation programs ever initiated. Today, some 1.8 million stamps are sold each year, and as of 2017, Federal Duck Stamps have generated more than \$1 billion for the preservation of more than 6 million acres of waterfowl habitat in the United States. Numerous other birds, mammals, fish, reptiles, and amphibians have similarly prospered because of habitat protection made possible by the program. An estimated one-third of the Nation's endangered and threatened species find food or shelter in refuges preserved by Duck Stamp funds. Moreover, the protected wetlands help dissipate storms, purify water supplies, store flood water, and nourish fish hatchlings important for sport and commercial fishermen.

#### History of the Duck Stamp Contest

The first Federal Duck Stamp was designed at President Roosevelt's request by Jay N. "Ding" Darling, a nationally known political cartoonist for the Des Moines Register and a noted hunter and wildlife conservationist. In subsequent years, noted wildlife artists were asked to submit designs. The first Federal Duck Stamp Contest was opened in 1949 to any U.S. artist who wished to enter, and 65 artists submitted a total of 88 design entries. Since then, the contest has attracted large numbers of entrants, and it remains the only art competition of its kind sponsored by the U.S. Government. The Secretary of the Interior appoints a panel of noted art, waterfowl, and philatelic authorities to select each year's winning design. Winners receive no compensation for the work, except a pane of their stamps, but winners may sell prints of their designs, which are sought by hunters, conservationists, and art collectors.

#### Theme of 2019–2020 Stamp

Throughout the history of the Federal Duck Stamp, there has been an effort to increase its messaging capabilities. For example, in 1959, the theme of the contest was "Retrievers Save Game," and artists were required to produce a design which illustrated this theme. The resulting 1959–1960 stamp, the "King Buck," featuring a black Labrador Retriever and a mallard, is arguably among the most identifiable Federal Duck Stamps. With the introduction of the 1998–1999 pressure-sensitive adhesive stamp, the Service developed a dollar-bill sized stamp carrier which provided additional area for visual and verbal messages. Additional opportunities exist

for messages on the back of the stamp as well as on the appreciation certificates that are available to customers interested in the Duck Stamp Program.

To address Executive Order 13443 (Facilitation of Hunting Heritage and Wildlife Conservation; 72 FR 46537, August 20, 2007) and Department of the Interior Secretary's Order 3356 (Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with States, Tribes, and Territories; September 15, 2017), the theme of the 2019–2020 stamp and accompanying certificate of appreciation will be “celebrating our waterfowl hunting heritage.” This will provide visual and verbal recognition to the contributions waterfowl hunters make to habitat conservation. As the only ones required to purchase a Federal Duck Stamp, waterfowl hunters have been the primary supporters of the Federal Duck Stamp program and have enabled the purchase of wetland habitats that support both hunted and nonhunted species, assist in flood control and water purification, and provide communities with an economic stimulus. By celebrating our waterfowl hunting heritage and showing hunters in a positive light as active wildlife conservationists on the 2019–2020 stamp, we will celebrate their contributions to providing public lands and robust wildlife populations. Through additional messaging, we also hope to engage Americans of all ages and backgrounds who may not have traditionally realized the benefits of wetland conservation.

#### Revised Proposed Changes to the Regulations at 50 CFR part 91

On February 11, 2016, we published a proposed rule (81 FR 7279) to revise the regulations at 50 CFR part 91 governing the annual Federal Duck Stamp Contest. Specifically, we proposed to update our contact information; update common names and spelling of species on our list of contest design subjects; correct minor grammar errors; and specify the requirement to include a second, appropriate, migratory bird species in the artwork design beginning with the 2016 contest. We did not make that rule final. Now, with this document, we are revising that proposed rule.

#### Retained Provisions of the February 11, 2016, Proposed Rule

As set forth in the February 11, 2016, proposed rule (81 FR 7279), we continue to propose to:

- Update §§ 91.1(b) and 91.11 to provide current and accurate contact information for the Service's Duck Stamp Office.
- Update the scientific and common names on our list at § 91.4 of species that are potential contest design subjects to ensure that list contains names currently accepted by the American Ornithological Society (AOS) <http://www.americanornithology.org/>; see also the AOS Checklist at <http://checklist.aou.org/taxa/>; this checklist is our standard reference on taxonomy, nomenclature, and capitalization). Some of the names differ in this revised proposed rule from those set forth in our February 11, 2016, proposed rule. Those differences are explained in Revised Provisions, below.
- Correct minor grammar errors in our regulations at 50 CFR part 91.

For the proposed text of §§ 91.1(b), 91.4, and 91.11, refer to our February 11, 2016, proposed rule (81 FR 7279).

#### Revised Provisions

The revisions to our February 11, 2016, proposed rule contained in this document consist of:

- Further updates to the scientific names of species on our list at § 91.4;
- Updates to recognize technological advances in stamp design and printing;
- Addition of judging and subject matter regulations to require that each depiction illustrates the theme “celebrating our waterfowl hunting heritage” for the 2018 contest.

#### Further Updates to Species’ Scientific Names

Section 91.4 contains our list of eligible waterfowl species. For each year’s contest, we choose five or fewer species from the list; one or more of those species (or a combination thereof; see § 91.14) are the only acceptable subjects for entries during that contest year. We announce each year’s eligible species on our website and in an annual contest brochure. Our list at § 91.4 contains scientific and common names accepted by the AOS.

Since we last revised our regulations, and again since we published our proposed rule on February 11, 2016, the AOS has changed the listing order among species and updated several species names. The further updates contained in this revised proposed rule are to two categories: (1) geese, and (2) dabbling ducks. For geese, the revised proposed changes would correct the genus name of Emperor, Snow, and Ross’s geese to *Anser*, so that they would read, “Emperor Goose (*Anser canagicus*),” “Snow Goose (*Anser caerulescens*),” and “Ross's Goose (*Anser rossii*),” respectively.

For dabbling ducks, the revised proposed changes would correct the genus name of Blue-winged and Cinnamon teal and Northern Shoveler to *Spatula*, so that they would read, “Blue-winged Teal (*Spatula discors*),” “Cinnamon Teal (*Spatula cyanoptera*),” and “Northern Shoveler (*Spatula clypeata*),” respectively. We would also correct the genus name of Gadwall and American Wigeon to *Mareca*, so that the entries read, “Gadwall (*Mareca strepera*)” and “American Wigeon (*Mareca americana*).”

We propose these further changes to our list at § 91.4 to reflect the most current scientific names of eligible waterfowl species.

#### Updating Technological Advances in Stamp Design and Printing

Currently both § 91.15 and § 91.23 contain regulations and references to a stamp production process that is no longer used. We propose to remove these outdated statements to reflect current technology in this revised proposed rule.

#### Depicting the Theme “Celebrating our Waterfowl Hunting Heritage” in 2018 Artwork Entries

Current § 91.14 explains that a live portrayal of any bird(s) of the five or fewer identified eligible waterfowl species must be the dominant feature of the design, but that the design may depict

other appropriate elements such as hunting dogs, as long as an eligible waterfowl species is in the foreground and clearly the focus of attention. In this revised proposed rule, we propose that, for 2018, contest entries must include one or more elements that reflect the theme “celebrating our waterfowl hunting heritage.”

Section 91.21(b) outlines the qualification of the judging panel. We also propose that, for 2018, all selected contest judges must have an understanding and appreciation of the waterfowl hunting heritage and be able to recognize scenery or objects related to waterfowl hunting.

Finally, § 91.23 sets forth the scoring criteria for the contest. We propose to specify that, for 2018, entries will also be judged on how well they illustrate the theme of “celebrating our waterfowl hunting heritage.”

The proposed changes to the regulations concerning the theme of “celebrating our waterfowl hunting heritage” would be in effect only for the 2018 contest.

#### Public Comments Procedures

To ensure that any final action resulting from this proposed rule will be as accurate and as effective as possible, we request that you send relevant information for our consideration. We will accept public comments we receive on or before the date listed above in DATES. We are striving to ensure that any amendments to the regulations resulting from our February 11, 2016, proposed rule (81 FR 7279) and this revised proposed rule would be in effect with sufficient time for artists to prepare submissions by the June opening of the 2018 contest. The comments that will be most useful are those that you support by quantitative information or studies and those that include citations to, and analyses of, the applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

You must submit your comments and materials concerning this proposed rule by one of the methods listed above in ADDRESSES. We will not accept comments sent by e-mail or fax or to an address not listed in ADDRESSES. If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information, such as your address, telephone number, or e-mail address—will be posted on the website. Please note that comments submitted to this website are not immediately viewable. When you submit a comment, the system receives it immediately. However, the comment will not be publically viewable until we post it, which might not occur until several days after submission.

If you mail or hand-carry a hardcopy comment directly to us that includes personal information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. To ensure that the electronic docket for this rulemaking is complete and all comments we receive are publicly available, we will post all hardcopy comments on <http://www.regulations.gov>.

In addition, comments and materials we receive, as well as supporting documentation used in preparing this proposed rule, will be available for public inspection in two ways:

(1) You can view them on <http://www.regulations.gov>. In the Search box, enter FWS–HQ–MB–2015–0161, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, select the type of documents you want to view under the Document Type heading.

(2) You can make an appointment, during normal business hours, to view the comments and materials in person by contacting the person listed above under FOR FURTHER INFORMATION CONTACT.

#### Public Availability of Comments

As stated above in more detail, before including your address, phone number, e-mail address or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publically available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### Required Determinations

For this revised proposed rule, we affirm the following required determinations provided in our February 11, 2016, proposed rule (81 FR 7279):

- Regulatory Planning and Review (Executive Orders 12866 and 13563);
- Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2));
- Federalism (Executive Order 13132);
- Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.);
- Takings (Executive Order 12630);
- Civil Justice Reform (Executive Order 12988);
- Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.);
- National Environmental Policy Act (42 U.S.C. 4321 et seq.);
- Government-to-Government Relationship with Tribes (Executive Order 13175); and
- Energy Supply, Distribution, or Use (Executive Order 13211).

We provide new required determinations as follows:

#### Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions) (5

U.S.C. 601 et seq.). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for “significant impact” and a threshold for a “substantial number of small entities.” See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities. The changes we propose are intended primarily to clarify the requirements for the contest. These changes would affect individuals, not businesses or other small entities as defined in the Regulatory Flexibility Act.

We therefore certify that, if adopted, this rule would not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act. A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

#### Executive Order 13771

This rule is not an Executive Order (E.O.) 13771 (82 FR 9339, February 3, 2017) regulatory action because this rule is not significant under E.O. 12866.

#### Clarity of This Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in ADDRESSES. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

#### List of Subjects in 50 CFR Part 91

Hunting, Wildlife.

#### Proposed Regulation Promulgation

For the reasons stated in the preamble, we propose to further amend 50 CFR part 91, as proposed to be amended at 81 FR 7279 (February 11, 2016), as set forth below:

## PART 91—MIGRATORY BIRD HUNTING AND CONSERVATION STAMP CONTEST

1. The authority citation for part 91 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 718j; 31 U.S.C. 9701.

2. Amend § 91.4 by revising paragraphs (b) and (d) to read as follows:

### § 91.4 Eligible species.

\* \* \* \* \*

#### (b) Geese.

- (1) Emperor Goose (*Anser canagicus*)
- (2) Snow Goose (including “white” and “blue” morphs) (*Anser caerulescens*)
- (3) Ross’s Goose (*Anser rossii*)
- (4) Greater White-fronted Goose (*Anser albifrons*)
- (5) Brant (*Branta bernicla*)
- (6) Cackling Goose (*Branta hutchinsii*)
- (7) Canada Goose (*Branta canadensis*)

\* \* \* \* \*

#### (d) Dabbling Ducks.

- (1) Wood Duck (*Aix sponsa*)
- (2) Blue-winged Teal (*Spatula discors*)
- (3) Cinnamon Teal (*Spatula cyanoptera*)
- (4) Northern Shoveler (*Spatula clypeata*)
- (5) Gadwall (*Mareca strepera*)
- (6) American Wigeon (*Mareca americana*)
- (7) Mallard (*Anas platyrhynchos*)
- (8) American Black Duck (*Anas rubripes*)
- (9) Mottled Duck (*Anas fulvigula*)



(10) Northern Pintail (*Anas acuta*)

(11) Green-winged Teal (*Anas crecca*)

\* \* \* \* \*

3. Revise §91.14 to read as follows:

§ 91.14 Restrictions on subject matter for entry.

(a) A live portrayal of any bird(s) of the five or fewer identified eligible waterfowl species must be the dominant feature of the design. The design may depict more than one of the eligible species. The judges' overall mandate is to select the best design that will make an interesting, useful, and attractive duck stamp that will be accepted and prized by hunters, stamp collectors, conservationists, and others. The design must be the contestant's original hand-drawn creation. The entry design may not be copied or duplicated from previously published art, including photographs, or from images in any format published on the Internet. Photographs, computer-generated art, or art produced from a computer printer or other computer/mechanical output device (airbrush method excepted) are not eligible to be entered into the contest and will be disqualified. An entry submitted in a prior contest that was not selected for a Federal or State stamp design may be submitted in the current contest if the entry meets the criteria set forth in this section.

(b) The 2018 Contest. In addition to the restrictions set forth in paragraph (a), in 2018 only, designs will also be required to include appropriate hunting-related accessories and/or scenes celebrating the Federal Duck Stamp's long-standing connection as part of our Nation's waterfowl hunting heritage and the contributions to conservation made by waterfowl hunters. Designs may include, but are not limited to, hunting dogs, hunting scenes, hunting equipment, waterfowl decoys, managed waterfowl areas as the background of habitat scenes, or other designs that represent our waterfowl hunting heritage. The design chosen will clearly meet the theme of "celebrating our hunting heritage."

§91.15 [Removed and Reserved]

4. Remove and reserve § 91.15.

5. In § 91.21, designate the text in paragraph (b) after the paragraph header as paragraph (b)(1) and add paragraph (b)(2) to read as follows:

§ 91.21 Selection and qualification of contest judges.

\* \* \* \* \*

(b) Qualifications. (1) \*\*\*

(2) The 2018 Contest. In 2018 only, it will also be mandatory that all selected judges have an understanding and appreciation of the waterfowl hunting heritage and be able to recognize waterfowl hunting paraphernalia.

\* \* \* \* \*

6. Revise §91.23 to read as follows:

§ 91.23 Scoring criteria for contest.

(a) Entries will be judged on the basis of anatomical accuracy, artistic composition, and suitability for reduction in the production of a stamp.

(b) The 2018 Contest. In 2018 only, entries will also be judged on how well they illustrate the theme of “celebrating our hunting heritage.”

Date: November 8, 2017

---

Jason Larrabee

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2017-25661 Filed: 11/27/2017 8:45 am; Publication Date: 11/28/2017]